

**CALENDAR ITEM
C04**

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04/20/17

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PRC 9046.1

M.J. Columbus

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE:

Anthony P. Rebele and Elizabeth A. Rebele, Trustees under the Anthony P. Rebele and Elizabeth A. Rebele 1994 Trust

APPLICANT:

Maria Martelino, Trustee of the Maria Martelino Living Trust dated February 18, 2013

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 6115 and 6120 West Lake Boulevard, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of one existing mooring buoy.

LEASE TERM:

10 years, beginning February 22, 2017.

CONSIDERATION:

\$377 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within two years after the

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adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoys.

4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The Applicant owns the upland adjoining the lease premises. On February 22, 2013, the Commission authorized a 10-year General Lease – Recreational Use for one existing mooring buoy to Anthony P. Rebele and Elizabeth A. Rebele, Trustees under the Anthony P. Rebele and Elizabeth A. Rebele 1994 Trust ([Calendar Item C23, February 22, 2013](#)). That lease will expire on February 21, 2023. On February 10, 2015, the upland was deeded to the Applicant. The Applicant is applying for issuance of a new lease for the continued use and maintenance of the existing mooring buoy.

Staff recommends termination of the existing lease because the Lessee abandoned the lease by selling the upland property and mooring buoy without notifying Commission staff and executing a lease quitclaim deed. Annual rent has been paid through February 21, 2017. Therefore, staff recommends that the Commission approve the new lease effective on February 22, 2017.

The mooring buoy is used for recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

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The buoy has existed for many years at this location. The buoy is located directly lakeward of the Applicant's upland property and occupies a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of the lease for an existing mooring buoy is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of a lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

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4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of a lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination, effective February 21, 2017, of Lease No. PRC 9046.1, a General Lease – Recreational Use, issued to Anthony P. Rebele and Elizabeth A. Rebele, Trustees under the Anthony P. Rebele and Elizabeth A. Rebele 1994 Trust.
2. Authorize issuance of a General Lease – Recreational Use to Maria Martelino, Trustee of the Maria Martelino Living Trust dated February 18, 2013; beginning February 22, 2017, for a term of 10 years, for the continued use and maintenance of an existing

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mooring buoy as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$377, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 9046.1

LAND DESCRIPTION

A parcel of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 7, Township 14 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved January 17, 1866, County of Placer, State of California, more particularly described as follows:

A circular parcel of land, being 50 feet in diameter, underlying an existing buoy lying adjacent to that parcel described in Grant Deed recorded February 10, 2015 as Document Number 2015-0009213-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/03/2017 by the California State Lands Commission Boundary Unit.



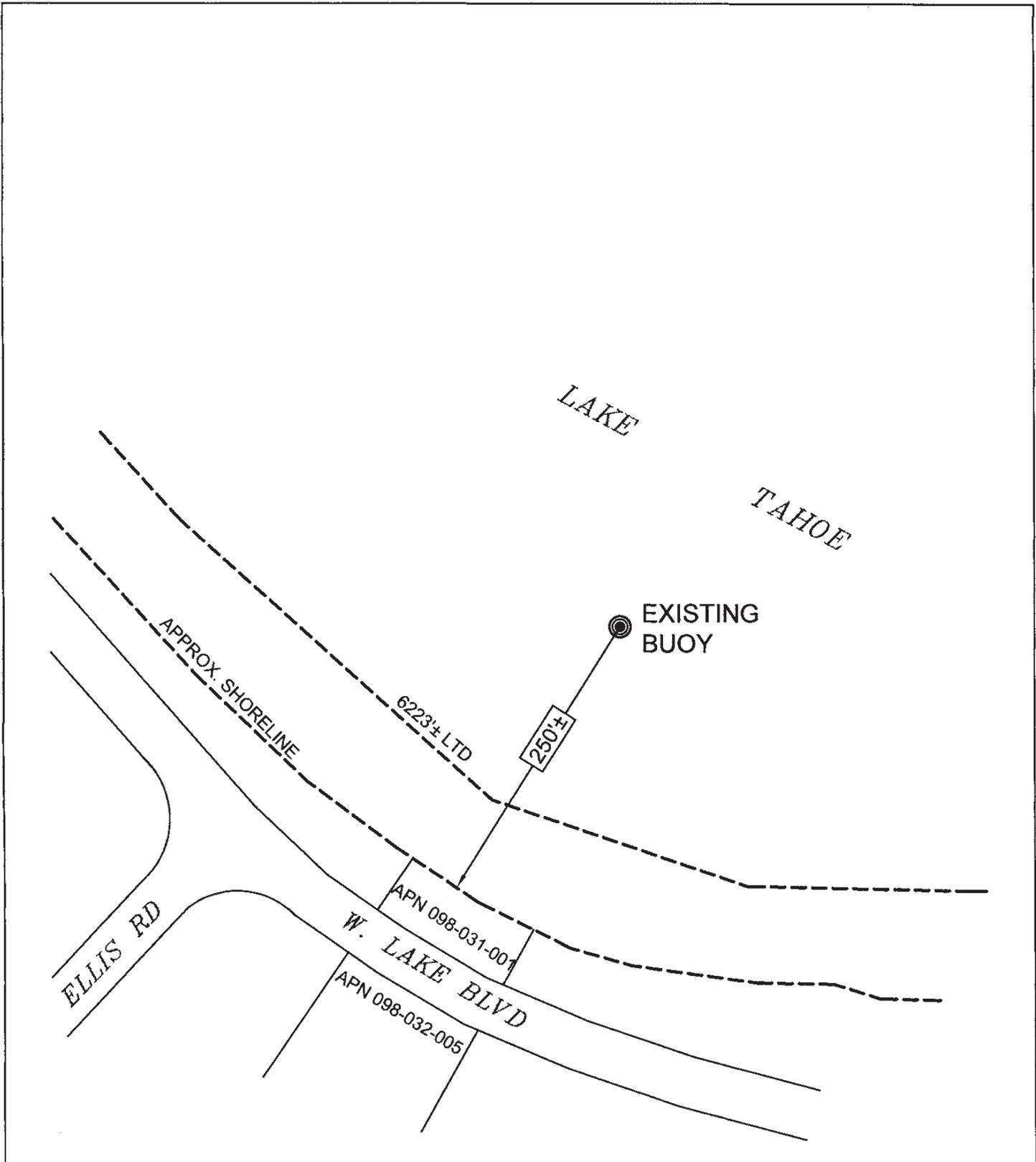


EXHIBIT A

LAND DESCRIPTION PLAT
 PRC 9046.1 MARTELINO
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



